



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

SEP 09 2013

Mr. Eric Massey
Director, Air Quality Division
Arizona Department of Environmental Quality
1110 West Washington Street
Phoenix, Arizona 85007

Dear Mr. Massey:


We have received your letter dated April 29, 2013 regarding the U.S. Environmental Protection Agency's "March 12, 2013 Finding of Incompleteness for [the] Arizona New Source Review State Implementation Plan (NSR SIP) Submission." Given the explanations provided in your letter, we hereby withdraw our incompleteness determination and find that the NSR SIP submitted by the Arizona Department of Environmental Quality (ADEQ) on October 29, 2012, became complete by operation of law under section 110(k)(1)(B) of the Clean Air Act on April 29, 2013.

As you correctly note, EPA regulations state that each SIP submission must contain "a copy of the official State regulation/document signed, stamped and dated by the appropriate State official indicating that it is fully enforceable by the State" and, whenever possible, indicating its effective date in the regulation itself. 40 CFR part 51, appendix V, section 2.1(d). Although in most cases the "official" copy of an enforceable State regulation is published in clean form, we now understand that the regulations submitted by ADEQ as part of the NSR SIP submission are fully enforceable and that ADEQ intends for the submitted rules (with track changes) to be incorporated by reference into the Arizona SIP.

We note, however, that rules submitted for incorporation by reference (IBR) into a SIP must satisfy the requirements of 1 CFR part 51, including requirements that such material be "published" material that is "reasonably available to and useable by the class of persons affected by the publication." 1 CFR 51.7(a)(2) and (a)(4). Accordingly, we request a written assurance from ADEQ that a published copy of the submitted NSR rules (with track changes) is readily available to the regulated parties.¹ We appreciate ADEQ's continued efforts to expedite the Arizona Secretary of State's official publication of these rules in the Arizona Administrative Code (AAC) and encourage ADEQ to submit clean copies of the rules, as published in the AAC, as soon as they become available. In the meantime, we will continue our review of the submitted NSR rules.

If you have any questions regarding our completeness review, please contact Lisa Beckham at (415) 972-3811 or beckham.lisa@epa.gov.

Sincerely,


Deborah Jordan
Director, Air Division

¹It appears that this version of the NSR rules (with track changes) is not available to the general public at http://www.azsos.gov/public_services/Title_18/18-02.htm#Article_3.